

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JEFFREY L. BURTCH, CHAPTER 7
TRUSTEE, FACTORY 2-U STORES,
INC., *et al.*,

Plaintiff,

v.

MILBERG FACTORS, INC.,
CAPITAL FACTORS, INC., THE CIT
GROUP/COMMERCIAL SERVICES, INC.,
GMAC COMMERCIAL FINANCE LLC,
HSBC BUSINESS CREDIT (USA) INC.,
ROSENTHAL AND ROSENTHAL, INC.,
STERLING FACTORS CORPORATION,
and WELLS FARGO CENTURY, INC.,


Defendants.

Civil Action No. 07-556-***

**DEFENDANT CAPITAL FACTORS, INC.'S
MOTION TO DISMISS THE COMPLAINT**

Defendant Capital Factors, Inc. ("Capital Factors") hereby moves the Court to dismiss the Complaint pursuant to Fed. R. Civ. P. 12(b)(6) for the reasons set forth in both the *Memorandum of Law in Support of Defendant The CIT Group/Commercial Services, Inc.'s Motion to Dismiss the Complaint*, filed by The CIT Group/Commercial Services, Inc. on December 14, 2007 (D.I. 27) (the "CIT motion") and *Opening Brief of Defendants GMAC Commercial Finance LLC, Sterling Factors Corporation and Wells Fargo Century, Inc. In Support of Their Motion to Dismiss*, filed by GMAC Commercial Finance LLC, Sterling Factors Corporation, and Wells Fargo Century, Inc. on December 17, 2007 (D.I. 31) (the "GMAC motion"). By express reference thereto, Capital Factors joins, adopts, and/or incorporates the CIT and GMAC motions fully herein.

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By 

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Dated: December 20, 2007
838341v2/ 32419

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ORDER

This _____ day of _____, 2007, the Court having
considered Defendant Capital Factors, Inc.'s Motion to Dismiss the Complaint and the parties'
arguments and briefing in support thereof and in opposition thereto,

IT IS HEREBY ORDERED that Defendant Capital Factors, Inc.'s Motion to
Dismiss the Complaint is **GRANTED**.

United States District Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CERTIFICATE OF SERVICE

I, David J. Baldwin, hereby certify that on December 20, 2007, the attached document was electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the document has been filed and is available for viewing and downloading.

I further certify that on December 20, 2007, I have Electronically Mailed the documents to the following person(s):

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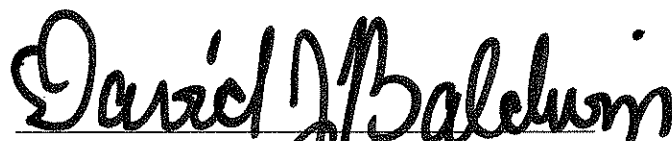
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A handwritten signature in black ink that reads "David J. Baldwin". The signature is written in a cursive, flowing style with a large, prominent "D" and "B".

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